

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2223.05  
COMPLAINT INVESTIGATOR: Joe Bear  
DATE OF COMPLAINT: February 17, 2005  
DATE OF REPORT: March 23, 2005  
REQUEST FOR RECONSIDERATION: no  
DATE OF CLOSURE: May 24, 2005

**COMPLAINT ISSUES:**

Whether the MSD of Martinsville violated:

511 IAC 7-27-10(a) by failing to ensure that, if the case conference committee (CCC) determines the student's placement to be the student's home or an alternate setting, the CCC report shall include:

- (1) the reason the student is not attending school;
- (2) other options tried or considered; and
- (3) the reasons the other options were rejected; and

511 IAC 7-21-7(b) by failing to provide for the transportation of a student with a disability; and

511 IAC 7-21-7(d) by failing to, pursuant to a written agreement, reimburse the parent at no less than the per mile rate at which employees of the public agency are reimbursed when the parent transports the student.

**FINDINGS OF FACT:**

1. The Student has been identified as having a mental disability and has been determined eligible for special education and related services.
2. The CCC convened without the parent in attendance on November 19, 2004, to review the Student's IEP. The Case Conference Summary states that a decision was made to provide instruction in an alternate setting (referred to as "homebound direct instruction"), and states other options that were considered. Other options were rejected because the Student could be "a danger to himself and others in a general education building," and research had not been conducted on available and appropriate outside facilities to serve the Student. The Case Conference Summary also states that, due to assaultive behavior, the Student "needs education in isolation with behavior management principles taught."
3. The Case Conference Summary states that the Complainant was unable to attend the CCC meeting on November 19, 2004, and that the meeting had been rescheduled two times. The sign-in page simply says that the Complainant was invited.
4. The Complainant had consented to the time of the November 19, 2004, CCC meeting in advance. The School's Family Service Coordinator (FSC) had made arrangements to pick the Complainant up in her

personal vehicle for the meeting. When the FSC arrived that morning, the Complainant declined to go to the meeting.

5. The FSC reached the Complainant in person following the CCC meeting on November 19, 2004. The Complainant then reviewed the IEP and signed that she agreed with the services recommended and gave permission for the plan to be implemented. Next to her signature, the Complainant wrote "disagree with residential placement," which referred to the CCC's statement that the School would make plans for such a placement.
6. As decided on November 19, 2004, the alternate setting for the Student's instruction was to be another school within the School Corporation. The Student's need for transportation was not addressed.
7. On February 15, 2005, the School hand-delivered a memorandum to the Complainant, stating that an error had been made regarding transportation to the alternate setting. After checking the laws, the School developed a transportation plan for the Student. The plan has since been implemented.
8. The School began providing the Student transportation to and from the alternate setting on February 16, 2005.
9. On February 1, 2005, the Superintendent and the Complainant signed a Transportation Agreement for the Student. The Agreement stated that the School would pay the Complainant \$.36 for each mile the Complainant provided transportation to and from the alternate setting. The Agreement was to be retroactive to the date on which the Complainant first provided such transportation to the Student.
10. On February 15, 2005, the School mailed the Complainant a check for \$30.88 to provide reimbursement for the months during which she provided transportation for the Student to and from the alternate setting.

## **CONCLUSIONS:**

1. Finding of Fact #2 indicates that the School did not fail to ensure that the CCC report contained the following: the reason the Student would not be attending school, but would be receiving instruction in an alternate setting; other options tried or considered; and the reasons the other options were rejected. Findings of Fact #3 and #4 indicate that the November 19, 2004, CCC meeting had already been rescheduled, the Complainant had agreed to the new time and date, and, although arrangements had been made for the Complainant's transportation to the meeting, the Complainant declined to participate. Finding of Fact #5 indicates that the Complainant reviewed and agreed to the homebound instruction, but not the residential placement. Therefore, a violation of 511 IAC 7-27-10(a) is not found.
2. Findings of Fact #6, #7, and #8 indicate that, although the decision was made in November 2004 to provide instruction in an alternate setting, transportation was not provided until nearly three months later. Transportation was begun before the filing of the complaint. Therefore, a violation of 511 IAC 7-21-7(b) is found, but corrective action has been taken.
3. Findings of Fact #9 and #10 indicate that the School provided reimbursement to the Complainant for the time when the Complainant provided transportation to the Student. This was done according to a written agreement and before the filing of the complaint. Therefore, a violation of 511 IAC 7-21-7(d) is found, but corrective action has been taken.

**The Department of Education, Division of Exceptional Learners, requires no corrective action based on the Findings of Fact and Conclusions listed above.**